

Michigan Department of Civil Service

# REGULATION

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<b>Subject:</b>  <b>APPOINTMENTS AND JOB CHANGES</b>			

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## **1. PURPOSE**

This regulation defines various types of transactions used to make appointments and job changes and provides standards and procedures governing their use.

## **2. CIVIL SERVICE COMMISSION RULE REFERENCE**

### ***Rule 3-3 Appointments and Job Changes***

#### **3-3.1 Process**

*All appointments, promotions, and job changes in the classified service must be made in accordance with the civil service rules and regulations. Any person appointed or promoted must be certified as qualified in accordance with and subject to the civil service rules and regulations. The state personnel director shall administer the certification of all appointments and promotions.*

#### **3-3.2 Demotion**

- (a) Notice.** *If an appointing authority intends to demote an employee, the appointing authority shall give prior written notice of the specific reasons for the demotion to the employee.*
- (b) Conditions.** *An appointing authority may demote an employee under any of the following circumstances:*
- (1)** *The employee is not performing satisfactorily.*
  - (2)** *The employee's position is reclassified downward.*
  - (3)** *The demotion is requested by the employee and approved by the appointing authority.*
  - (4)** *The position occupied by the employee is abolished.*
  - (5)** *The employee is displaced by the return to duty of another employee entitled to the position.*
  - (6)** *The employee is displaced by another employee with more seniority during a reduction in force.*
  - (7)** *The employee does not receive a satisfactory probationary service rating, as authorized in rule 3-5.3(b) [Unsatisfactory Service: Employee with Status].*

#### **3-3.3 Emergency Appointment.**

*When emergency conditions require immediate action, an appointing authority is authorized to make an emergency appointment for up to 28 calendar days. The state personnel director may approve an extension of an emergency appointment up to an additional 28 calendar days. An appointing authority cannot reappoint a person to a second consecutive emergency appointment within the same principal department, autonomous entity, or agency of convenience. An emergency appointment is authorized only when made in conformity with the civil service regulations governing emergency appointments.*

**3-3.4 Hire.**

*An appointing authority may appoint a qualified candidate to a position in the classified service as authorized by and in accordance with the civil service rules and regulations. A candidate may be qualified for appointment in one or more of the following ways:*

- (a) The candidate is listed in an appropriate civil service applicant pool.*
- (b) The candidate meets the civil service qualifications for appointment to a designated classification.*
- (c) The candidate is qualified after review by the department of civil service.*

**3-3.5 Lateral Job Change Between Departments.**

*Any two appointing authorities may authorize a lateral job change for an employee between departments or autonomous entities. The employee may be moved to a different classification only if (1) the employee previously attained status in the classification, (2) the job change is based on the civil service preauthorized lateral job change list, or (3) the employee meets the civil service qualification requirements. A lateral job change between departments or autonomous entities requires the agreement of the employee and the approval of the department of civil service.*

**3-3.6 Lateral Job Change within a Department.**

*An appointing authority may authorize a lateral job change for an employee within the employee's current department or autonomous entity. The employee may be moved to a different classification only if (1) the employee previously attained status in the classification, (2) the job change is based on the civil service preauthorized lateral job change list, or (3) the employee meets the civil service qualification requirements. A lateral job change within a department or autonomous entity does not require the agreement of the employee. However, an employee may request a lateral job change.*

**3-3.7 Promotion.**

*An appointing authority may appoint a qualified employee candidate to another position at a higher classification level as authorized by and in accordance with the civil service rules and regulations. A candidate may be qualified for appointment in one or more of the following ways:*

- (a) The candidate is listed in an appropriate civil service applicant pool.*
- (b) The candidate meets the civil service qualifications for appointment to a designated classification.*
- (c) The candidate is qualified after review by the department of civil service.*

**3-3.8 Recall.**

*A person is recalled in accordance with the civil service rules and regulations in effect at the time of the recall. Unless the rules or regulations provide otherwise, appointment is first limited to persons on recall lists.*

**3-3.9 Reinstatement.**

*A classified employee who achieved status and who is demoted or separated while in satisfactory standing is eligible for reinstatement. An appointing authority may reinstate an eligible person to (1) the classification in which the person last achieved status before the separation or demotion or (2) to a classification at the same or lower classification level for which the person is qualified. A person's eligibility for reinstatement is limited to 3 years after separation or demotion. However, the state personnel director may extend eligibility in the regulations to meet work force needs.*

**Rule 3-4 Relation to Collective Bargaining.**

*An appointing authority shall make all appointments in accordance with the civil service rules and regulations, unless a provision in a collective bargaining agreement regarding reassignment, transfer, layoff, or recall permitted by rule 6-3 [Commission Authority] provides otherwise.*

**Rule 3-6 Revocation of Appointment****3-6.1 Review of Appointments**

*Every appointment in the classified service is expressly subject to review by the department of civil service. If the department determines that an appointment violated a civil service rule or regulation, the department may order corrective action, including revocation of the appointment.*

**3-6.2 Methods of Review.**

*The department of civil service may review any appointment as part of the department's audit function or as the result of a technical appointment complaint.*

**(a) Audit review.**

- (1) Revocation of appointment.** *If the department of civil service audits an appointment and determines that the selection, appointment, or certification violated a civil service rule or regulation, the department may order corrective action, including revocation of the appointment. The department shall give written notice of the revocation to the appointing authority and the employee whose appointment is revoked.*

(2) **Subsequent technical complaint.** *An employee whose appointment is revoked, or the employee's appointing authority, may file a technical appointment complaint regarding a staff revocation order within 14 calendar days after the date the revocation order was issued. If a timely technical appointment complaint is filed, the revocation order is automatically stayed pending a decision or further order of the technical review officer.*

**(b) Technical appointment complaint by candidate.**

(1) **Technical appointment complaint authorized.** *If an unsuccessful candidate files a timely technical appointment complaint under rule 8-3 [Technical Complaints] and the technical review officer determines that the challenged appointment violated a civil service rule or regulation, the officer may order corrective action, including revocation of the challenged appointment.*

(2) **Notice to incumbent.** *If a technical appointment complaint is filed, the incumbent employee whose appointment is being challenged in the complaint is entitled to notice of the complaint and an opportunity to defend the appointment. If the technical review officer revokes an incumbent employee's appointment, that incumbent employee is bound by the determination of the technical review officer, including revocation of the incumbent employee's appointment.*

**3-6.3 Effect of Revocation of Appointment**

*When the department of civil service or a technical review officer revokes an appointment, the employment status of the employee whose appointment is revoked is determined as follows:*

(a) **Employee with continuing status.** *If the employee had continuing status at the time of the appointment, the employee is to be retained in a position within the principal department or autonomous agency that appointed the employee at a classification and level in which the employee had continuing status at the time of the appointment. If no such position is available within the department or agency at the time of the revocation, the employee may exercise employment preference.*

(b) **Employee without continuing status.** *If the employee had no continuing status in the classified service at the time of the appointment, the appointing authority shall separate the employee from state employment, unless the employee has otherwise been properly appointed to another position.*

**3. DEFINITIONS**

**A Civil Service Commission Rule Definitions**

1. ***Applicant*** means a person who requests to participate in an appraisal process.
2. ***Applicant pool*** means a group of applicants whom the department of civil service has determined to be qualified.
3. ***Appointing authority*** means each of the following:
  - (a) A single executive heading a principal department.
  - (b) The chief executive officer of each principal department headed by a board or commission.
  - (c) A person designated by either of the preceding as responsible for administering the personnel functions of the department, board, or commission, or agency of convenience.
4. ***Appointment*** means an authorized act of an appointing authority employing a properly qualified person in a specific position in the classified service.
5. ***Autonomous entity*** means an executive branch organization or function established by law within a principal department, but specifically directed by law to be a separate, independent unit, with the intent that its authority, powers, duties, and responsibilities, including personnel, budgeting, procurement, and management-related functions be exercised free from the direction and supervision of the principal department.
6. ***Class series*** means a series of classifications with similar but progressively more responsible job duties
7. ***Demotion*** means an authorized movement of an employee with status from a position in one classification level to a lower classification level.
8. ***Employee status code*** means the status assigned to an employee for the purposes of determining pay and benefits.
9. ***Hire*** means the initial appointment to the state classified service authorized by the department of civil service.
10. ***Indefinite appointment*** means a career appointment with no fixed ending date at the time of appointment.
11. ***Job change*** means an authorized movement of an employee from one position to another. Job change includes, for example, demotion, lateral job change, promotion, reclassification, and reduction-in-force.

12. **Lateral job change** means the authorized movement of an employee to a different position (1) in the same classification or (2) in a different classification at the same classification level.
13. **Limited-term appointment** means a career appointment that has a fixed ending date at the time of appointment.
14. **Noncareer appointment** means an appointment to a classified position that is expected to last less than the equivalent of 90 full-time workdays in a calendar year.
15. **Preauthorized** means the specific authorization granted to an appointing authority to process a transaction in accordance with civil service rules and regulations without prior civil service review.
16. **Principal department** means one of not more than 20 executive branch departments provided for by article 5, section 2, of the constitution.
17. **Promotion** means the appointment of an employee to a different position at a higher classification level.
18. **Recall list** means a list of persons who have been laid off, demoted, or otherwise displaced for reasons of administrative efficiency, including, for example, lack of work, lack of adequate funding, change in mission, or reorganization of the work force.
19. **Reinstatement** means the appointment of a person who was previously separated from, or demoted in, the classified service while in satisfactory standing.
20. **Status** means the recognition of an employee who has been properly appraised, qualified, and appointed to the classified service and who has satisfactorily completed the probationary period in an indefinite or limited-term appointment.
21. **Total continuous service** means the number of paid hours of creditable time compiled during a current employment period. Total continuous service includes creditable time but does not include noncreditable time.

## B. Additional Definitions as Used in This Regulation

1. **Emergency appointment** means an appointment based upon a short-term, urgent need. An employee in an emergency appointment is not entitled to (1)

sick or annual leave accruals, (2) holiday pay, (3) enrollment in state-sponsored insurance plans, (4) service credit for any purpose, (5) continued employment, (6) status, or (7) employment preference rights.

2. ***HRMN EEO category*** means one of eight broad occupational groupings contained in the HRMN. Every classification is assigned to a “HRMN EEO category” by the Department of Civil Service. Descriptions of each of the HRMN EEO categories are contained in the Compensation Plan.
3. ***Preauthorized lateral job change list*** means a compilation of current classifications showing, for each classification, a listing of all the classifications at the same classification level to which lateral job change between a department or lateral job change within a department may occur without prior review of qualifications by the Department of Civil Service.
4. ***Recall*** means the return of a former or current employee to a position in which status was achieved and whose previous employment was modified by a reduction in force.
5. ***Student appointment*** means an appointment to a designated student classification as authorized in rule 2-1.2. An employee in a student appointment is not entitled to (1) sick or annual leave accruals, (2) holiday pay, (3) enrollment in state-sponsored insurance plans, (4) service credit for any purpose, (5) continued employment, (6) status, or (7) employment preference rights.

## 4. **STANDARDS**

### A. **Recall Appointments and Job Changes**

1. Contractual obligations must be fulfilled when filling a position covered by a collective bargaining agreement.
2. Recall names prevent the movement of an exclusively represented employee to a nonexclusively represented position.
3. Recall names for a classification normally prevent the hire, promotion, reinstatement, demotion or lateral job change between departments of an individual to that classification. Exceptions may occur if a hiring freeze or hiring restriction is in effect. Regulation 3.10, Promotion or Lateral Job



Change within a Department of Current Employees under Hiring Restriction Conditions, establishes the standards that must be fulfilled.

4. When names appear on the recall list within the same principal department or autonomous entity, an employee may be lateral job changed by the appointing authority to a position in the same classification and classification level, to a different classification at the same classification level within the same EEO category, or to a position where the movement is identified as a lateral job change in the Preauthorized Lateral Job Change List. An employee may be demoted to a position at a lower classification level in the same class series or to a position at a lower classification level within the same EEO category.
5. Appointments from a recall list must be made as follows:
  - a. Departmental Recall: The most senior available candidate, based on total continuous service hours, is appointed.
  - b. Statewide Recall: In the absence of departmental recall names, an appointment is made from among any names appearing as statewide recall candidates. All recall list names must be properly removed in accordance with regulation 3.09, Establishment, Maintenance, and Duration of Recall Lists for Nonexclusively Represented Employees, before additional candidates can be considered.
6. Appointments to the State Transitional Manager, State Transitional Professional, or State Transitional Business and Administrative Technician, or Departmental Trainee classifications when names appear on the recall list must be made as follows:
  - a. Appointments or job changes to these classifications are only processed when there are no recall names for the specific corresponding professional classification.
  - b. Following appointment from a recall list, immediate reclassification to the State Transitional Manager, State Transitional Professional, Departmental Trainee, or State Transitional Business and Administrative Technician classifications is prohibited. (Changes in classification or reclassification of the position are subject to the standards described in regulation 4.05, Frequency of Review of Positions.)

## **B. All Other Appointments and Job Changes**

1. Applicants must possess the qualifications for the classification to which an appointment or job change is being made; at least one of the assigned sub-classes, if any; and any selective position requirement criteria that have been approved by the Department of Civil Service.
2. All appointments and job changes must be made in accordance with the standards and conditions of this regulation. Misapplication of these standards and conditions that create an improper appointment or job change may result in revocation of the appointment or job change or other corrective action.
3. The Department of Civil Service shall review qualifications of applicants for all classifications covered in Department of Civil Service maintained applicant pools.
4. The Department of Civil Service shall review qualifications of applicants for classifications that have not been preauthorized for credential review. Regulation 3.04, Standard D, specifies other conditions under which the Department of Civil Service shall conduct credential reviews.
5. Appointing authorities may review qualifications of applicants for predetermined classifications in accordance with regulation 3.04. (See State of Michigan Applicant Recruitment Strategies for a listing of the statewide preauthorized classifications. Other classifications may be preauthorized to appointing authorities on an individual basis).
6. All appointments and job changes must be made in compliance with civil service rules, regulations, and procedures, as certified by the appointing authority to the Department of Civil Service.

### **C. Limited-term Appointments**

1. A limited-term appointment means a career appointment that has a fixed ending date at the time of the appointment.
2. A limited-term appointment automatically expires at the fixed end of the term, unless terminated earlier by the appointing authority.
3. A limited-term appointment cannot exceed 2 years from the date of appointment, unless approved for extension by the Department of Civil Service.

4. An individual appointed on such a basis has the same rights as employees in indefinite appointments, except as those benefits and rights are otherwise limited elsewhere in rules or regulations.
5. A limited-term appointment may be full-time or less than full-time.
6. Employment preference or recall rights can only be applied as defined in rule 2-5.1.

#### **D. Lateral Job Changes, Reinstatements, and Demotions**

1. A lateral job change, reinstatement, or demotion does not require Civil Service review of applicants' qualifications when any of the following conditions are met:
  - a. The movement is to a different position in the same classification (with the same subclass code, if applicable) or to a position at a lower classification level in the same class series.
  - b. The movement between classifications is listed in the Preauthorized Lateral Job Change Listing.
  - c. The employee's name is in the Department of Civil Service applicant pool for the classification (with subclass code, if applicable) to which lateral job changing, reinstating, or demoting.
  - d. There is documentation that the Department of Civil Service has reviewed and approved the employee's qualifications for the proposed movement and the qualifications for the classification have not changed.
  - e. The appointing authority has reviewed and approved the employee's qualifications for the preauthorized classification and the qualifications have not changed.
2. Lateral job changes, reinstatements, or demotions that do not satisfy the conditions stipulated in standard D(1) require review and approval of the candidate's qualifications by the Department of Civil Service before the action is taken. A request for qualification review must be submitted for this purpose.

3. During the probationary period, an employee may be lateral job changed, or demoted to a position in the same classification or class series, with the same employee status code.
4. Lateral job changes between departments may occur in accordance with rule 3-3.5, as follows:
  - a. The sending and receiving appointing authorities must certify in writing to the state personnel director that they mutually agreed to the job change.
  - b. An employee has the right to refuse a lateral job change between departments and, when necessary, to exercise employment preference within the sending department or autonomous entity.
  - c. An employee cannot be lateral job changed between departments if there is an employee currently working for the receiving department or autonomous entity who has departmental recall rights to the classification level.
  - d. An employee must receive written notice at least 28 calendar days before the effective date of the lateral job change, unless agreed otherwise.
  - e. A lateral job change of a nonexclusively represented employee to a position covered by a collective bargaining agreement is governed by the terms and conditions of the collective bargaining agreement.
5. Reinstatement must take place within 3 years of the employee's separation, demotion, or departure on a waived rights leave of absence from an indefinite or limited-term appointment in which status was attained. The reinstatement period for employees who have been laid off or demoted because of a reduction in force begins when their recall rights expire. An employee must have separated in satisfactory standing to be eligible for reinstatement.

## **CONTACT**

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Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 373-3048 or 1-800-788-1766, or MDCS-BHRS@state.mi.us.

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan *Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.